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Honor Killing in India: Need for Reforms

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ABSTRACT

Nobody should violate the court rule, otherwise faced accusation of breaking the law. Two adults are free to marry and “no third party” has a right to harass or cause harm to them, stated by Chief Justice of India Dipak Misra, speaking against honour killings in India. Honour killing is defined as killing a relative, especially a girl, woman or a man perceived to bring dishonour to the family. As per the National Crime Records Bureau, Data 2015 India reported 251 honour killings in 2015, showing a significant rise in killings of people who feel that they are acting in defence of the integrity of their families. The state reported 34 honour killings between 2008 and 2010. There was a rising case of honour killing in India more than 300 cases reported from the last three years. Honour killings have been mostly reported in northern regions of India, mainly in the states of Punjab, Rajasthan, Haryana, and Uttar Pradesh as a result of people marrying without their family’s acceptance, and sometimes for marrying outside their caste or religion. Honour killings are also widespread in South India and the western Indian states of Maharashtra and Gujarat. Here in this article, the author addresses the current situation, developments in law and amendments needed to improve the current scenario? Honour killing is an act of murder by members of the family. This would be the immoral conduct of the members of the family belief in caste and gotras above one’s life. It is done to remove a family member’s dishonour and shame.

Keywords: Honour Killing, Cultural Killing, Khap Panchayat, Life/Liberty. Illegal.

I. INTRODUCTION

Honour killing is defined as the killing of a relative, especially a girl, woman and a man perceived to bring dishonour to the family. As per the National Crime Records Bureau, Data 2015 India reported 251 honour killings in 2015, showing a significant rise in killings of people who feel that they are acting in defence of the integrity of their families. The state reported 34 honour killings between 2008 and 2010. There was a rising case of honour killing in India more than 300 cases reported from the last three years. Honour killings have been mostly reported in northern regions of India, mainly in the states of Punjab, Rajasthan, Haryana, and Uttar Pradesh as a result of people marrying without their family’s acceptance, and sometimes for marrying

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outside their caste or religion. Honour killings are also widespread in South India and the western Indian states of Maharashtra and Gujarat. Here in this article, the author addresses the current situation, developments in law and amendments needed to improve the current scenario?

Honour killing is an act of murder by members of the family. This would be the immoral conduct of the members of the family belief in caste and gotras above one's life. It is done to remove a family member's dishonour and shame. The male or any member of the family kills the person who doesn't match their social standing. It might even be a pre-planned murder, the key reasons are caste and religion. Even after 70 years of Independence, people still believe in the superiority of caste above life. India is a democratic country where all people have the right to equal treatment.

II. HISTORICAL OVERVIEW

The practice of honour killing is not new it has its ancient origins that exist in all most all religions. Centuries before in India there are great epics written like Ramayana, Mahabharata, and if we see the origin for conflict and clashes between two factions it will be found revolving around the honour and dignity of the centric women characters. Like in Ramayana, Sita the wife of going to be King of Avadha, Ram, was forcefully taken away by the King of Lanka and to bring back Sita and preserve her honour and dignity the war between Rama and Ravana happened, and many precious lives are lost from both sides. Later on the question on her chastity by the society led to separation between the King Ram and Sita. Similarly in Mahabharata, the five brothers who were married to Draupadi, loose everything in a game of gambling to their cousin brothers, so the opponent ask them to play one more chance by putting their wife honour at stake and they lose her also. She then being dragged by her hairs, humiliated, insulted and brought in the open court and was mocked, disgraced embarrassed, demeaned and dishonored in front the whole community. The outcome of this incident is the war between brothers ending many lives on the settling score of honour and dignity. In both these incidences the war was the fall out as in both the Royal families and their honour being at stake, its subjects sacrificed their precious lives so as to preserve the dignity of their virtuous king and their families. It may not be the individual act of honour killing, but it definitely lays foundation that if great wars are fought for honour then individual family honour can also role play the same game of devastation in the name of preserving honour and dignity. Generally practice of Sati which was in trend in ancient times can also be attributed to preserve dignity and honour of women whose husband dies and so lady was forced to end her life on the burning prayer of her husband so that her

dignity and honour remains intact. And like this there may be many stories which remain embedded behind the veils of history who got their breath sacrificed in the name of this very honour and dignity. There is no trace in the history specifically as any one instance as first case of honour killing.

With advent of Muslim rulers, more conventional dynamics added to this notion as they kept their women under cloaks in the name of a faith honour killing was justified by the male protagonist of the families, so generally the trend continues even today the practice is exercised in full public view, in certain countries it relics subject to culturally prejudiced laws and exercises that provide exceptions to standard ideas of justice. It was Britishers who brought new outlook towards women's right and dignity and they helped in curbing many biased acts which women were facing that time, but nothing concrete can be said regarding their contribution towards the aspect of honour killing is mentioned in the pages of history during the modern era as well.

The history of honour killing in India can be traced back to the ancient times when the caste system was very rigid and marrying outside one's caste was considered a social taboo. Indian society was divided into four Varnas or castes, according to the nature of their work: Brahmin - priests, Kshatriya - warriors, Vaishya - traders and Shudras - laborers or untouchables. It was a taboo to marry outside one's caste but when it did happen, the woman was killed by a family member to maintain their prestige and social status in the society.³ One of the most glaring exhibitions of honor killings was in the ancient tradition of Jauhar practised in the Rajput community. In this form of honor killing, women self-immolate in order to avoid getting captured during wars and save themselves from dishonor at the hands of the enemy.⁴ However, one of the worst cases of honour killing reported is believed to have occurred during the India-Pakistan partition between 1947 and 1950. Millions of people lost their lives and homes during this tragedy, with women particularly victimized. Women on the wrong side of the border were raped and killed. While many committed suicide to maintain their honour, others were forced to marry the men on the same side so that they would not be victimized. However, years later when they returned to their families and homes, they were ostracized and murdered by their own family members in order to maintain the honour and dignity of the family name in the community.⁵ In the present times as well, the continued presence of a rigid caste system and belief in gotras explains the widespread prevalence of honour killing. There are various forms

³ [http://www.csss-islam.com/Status%20of%20Women%20in%20India%20Interneer%20report%20\[1\].pdf](http://www.csss-islam.com/Status%20of%20Women%20in%20India%20Interneer%20report%20[1].pdf)

⁴ <http://isstindia.org/PDF/Violence%20Against%20Women%20India.pdf>.

⁵ <http://www.jeywin.com/blog/the-evil-of-honour-killing-india/>

of violence committed against women. It is partly attributed to misogyny, assuming that men are inherently superior to women. Given the lesser status of the women in society, gender violence is mostly considered normal and enjoys the consent of the society. Sign of violence against women includes physical aggression such as blows of different degrees, burns, sexual abuse and rape, domestic violence, psychological violence. These expressions of violence take place within the family and society in a man-women relationship.⁶ Thus, it can be said that there has been a history of violence against women which has existed in India since a long time. Another important factor is the socio-economic control exerted by the victims' families and the community or society, which play a large role in promoting this crime. For instance, in rural areas each individual is closely knit to the family and the village community. Therefore, in case of an inter-caste marriage, the pressure to punish the married couple comes not only from the immediate family but also from the entire village or community. This is largely because in the village, the families are socially and economically dependent on other villagers. So if a family goes against the wishes of the entire village by sanctioning an inter-caste marriage, then the family is boycotted by the village - everybody will sever all association with the family. In the 21st century, India remains a largely rural and semi-urban nation. Hence it is not surprising that in the present times, the problem of honour killing does not seem to have been solved. A recent report in the Asian Age (June 24, 2010) suggested that there were up to 1,000 honour killings reported in 2010 in India. However, this is just a conservative estimate considering that many more cases go unreported. It is seen that the most number of cases of honour killing are reported from North India from the states of Uttarakhand, Punjab, Haryana, Uttar Pradesh and Rajasthan. In contrast it is seen that there are few cases in Maharashtra and Gujarat and almost none in South India. The extent of this problem is indicated by the fact that these numbers come close to the honour killing figures in Pakistan, which has one of the worst records of this heinous crime.⁷ Post the economic liberalization in the early 1990s, India has emerged as one of world's largest and fastest growing economies. The influx of foreign investment and culture has greatly influenced the strong, middle-class and relatively young population in urban and even rural areas. One of the impacts of globalization has been the mass migration, mostly of youth, from rural to urban areas for employment. The cosmopolitan population in urban areas means that more youth are meeting, and deciding to get married to people from other castes and cultures. However, this kind of relationship finds no sanction with the older generation who are still rooted in the traditional caste system. This leads to a clash between the two generations which

⁶ [http://www.isstindia.org/PDF/Violence%20Against%20Women %20India.pdf](http://www.isstindia.org/PDF/Violence%20Against%20Women%20India.pdf)

⁷ <http://www.asianage.com/india/%E2%80%98india-has-over-1000-honour-killings-year%E2%80%99-859>

frequently ends up in ghastly cases of honour killing. Caste dynamics play a key role as marrying outside one's caste is still not accepted. Hence, globalization and modernization have perpetrated this crime to a certain extent, instead of helping the traditional mindsets accept the changing realities of today's world. Continuing the tradition of honour killing, along with other social evils, is seen as a reassertion of community control over the families that have been influenced by elements of democracy, capitalism and a globalized economy. Hence it is clear that as a result of globalization, the influence of the caste system has been reduced, especially in the urban areas. In the current globalized society, it is possible for a person from a lower caste to improve his/her status in the society, class-wise. However, the traditionalists have not taken to this phenomenon kindly, as a result of which they are retreating to regressive customs like the caste system and honour killings to reestablish their superiority over those that they consider socially inferior, especially in rural and semi-urban areas.

III. NEED FOR REFORMS IN A CURRENT LEGISLATION

(A) Penalties under IPC (Indian Penal Code)

Actual Penalties under Indian Penal Code:

- Sections 299–304: Penalizes any person guilty of murder and culpable homicide not amounting to murder. Murder penalty is life imprisonment or death, and fine. The penalty for non-murder culpable homicide is life imprisonment or imprisonment for up to 10 years, and fine.
- Section 307: Penalizes threaten to kill for up to 10 years of imprisonment, and a fine. If a person gets injured, the punishment can extend to life in prison.
- Section 308: Penalizes attempt to commit culpable homicide by imprisonment for up to 3 years or with fine or with both. If it causes injury, the person shall be imprisoned or fined for up to 7 years, or both.
- Section 120A and 120B: Penalize whoever is a participant to a criminal conspiracy.
- Sections 107–116: Penalizes people for abetting murders, including murder and culpable homicide.
- Section 34 and 35: Penalizes several-person criminal acts in support of common intention.

(B) Role of provision in Indian Law

Fundamental and Constitutional rights

- Violation of constitutional rights under Article 14 of the Constitution of India (equality before law) and Article 19 of the Constitution of India.
- The barbaric murders kept under the shield to save the family's reputation are against the constitutional provision of Article 21 (Protection of life and personal liberty), the petition said.
- The honor killing violates Article 14 (Equality before law), Article 15(1) (Restriction of discrimination on grounds of religion, race, caste, sex, or place of birth) & Article 15(3) (creating special provision for children and women), Article 19 (Protection of freedom of Speech), Article 21 (protection of life and personal liberty) and Article 39(f) of the Indian Constitution states that giving children opportunities and facilities to grow in a safe manner and conditions of equality and dignity, and protecting children and young people from abuse and moral and material abandonment.
- The Indian legislation seems to have finally awoken to this problem after it has come into the limelight and people are speaking up against such cruelty.
- Finally, after the killings, according to the home minister P Chidambaram, the UPA led central government proposed to amend the Indian Penal Code and make Honor Killing a 'distinct offence' although how that will make any difference to the present condition still needs to be scrutinized as honour killing amounts to murder which is punishable under law.

(C) The Indian Majority Act, 1875

- Under section 3 of the Indian Majority Act, 1875, every person residing in India shall, upon completion of 18 years, attain the age of majority, unless otherwise stated in his or her rule.
- In the case of a guardian assigned to such a minor, however, the age of majority would be 21 and not 18.
- The Act becomes applicable in cases where the khap panchayats have forcefully split married couples, otherwise eligible for such marriage because of age, etc. This is an apparent case of breach of the provisions of this Act.

(D) The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

To avoid cases of violence against Scheduled Castes and Scheduled Tribes, this Act was passed by the Parliament of India.

The goal was to promote Dalits social integration into Indian society's mainstream.

Offences under this Act-

1. Involve various actions such as forcing an SC / ST to eat or drink some uneatable or undesirable material.
2. Removing clothing, showoff naked or with a painted face or body.
3. Attacking, dishonoring and offending an SC / ST woman's modesty.
4. Sexual harassment of an SC / ST woman.
5. Forcing an SC / ST to leave his or her house or village as punishable.

The Act is synonymous with honour killings because of multiple honour killing cases.

(E) The Protection of Women from Domestic Violence Act, 2005

The Protection of Women from Domestic Violence Act, 2005 provides for more comprehensive enforcement of the rights of women guaranteed under the Constitution who are victims of abuse of any kind that exists within the family, and of matters connected with it or incidental to it.

(F) Indian Evidence Act, 1872

The Indian Evidence Act, 1872, also provides penalties for those involved in the concealment of evidence, either before or at the time of the suspected crime, or after it.

Article 13 of the Act described the facts relevant where right or custom is at issue.

Where the question relates to the nature of any right or custom, the following facts are important:

Any contract by which the right or custom in question was created, changed, accepted, asserted or rejected, or which was inconsistent with its nature; Particular instances in which the right or custom in question was established; The Act is important for getting those who are victims to justice because of the verdicts given by the khap panchayats.

(G) The Special Marriage Act of 1954

The key reason for the enactment of the Special Marriage Act, 1954, was to provide a special form of marriage for the Indian people and all Indians residing in foreign countries, irrespective of the religion or faith practised by either group, to carry out the marriage intended.

IV. INDIAN CASES OF HONOR KILLING

1. Nitish Katara killing: In February 2002, Nitish Katara was abducted and murdered by politician DP Yadav's son Vikas Yadav and his cousin Vishal Yadav for having intimate

relations with Vikas Yadav's sister Bharti. The Yadavs never approved of the relationship between the two, and Katara received threats several times. On February 17, Nitish and Bharti attended a common friend's wedding, where Yadav's brother, Vikas, and a cousin were present. From there, Katara was taken for a drive by Yadav's brothers, and did not return. Three days later, Katara's body was found near a highway. He had been battered to death with a hammer, and then set aflame.

2. Manoj-Babli case: Manoj and Babli, from Karora village in Kaithal district, were brutally murdered by Babli's relatives in June 2007. The cruel act was carried out on the orders of a khap panchayat, for marrying in the same gotra. On June 23, two decomposed bodies were found from Barwala branch canal in Hissar. Further investigations led to shocking details. According to reports, the couple was asked to accept each other as brother and sister. They refused, and then were forcefully fed pesticides. They were then strangled to death, and the bodies were thrown in the canal.

3. Bhavna Yadav death: In November 2014, a 21-year-old Delhi University student Bhavna Yadav was strangled to death by her parents, just three days after her marriage, because she tied the knot against her parents' wishes. Bhavna was allegedly killed by her father Jagmohan Yadav and mother Savitri Yadav at her house in south-west Delhi's Dwarka North. According to reports, after killing their daughter, the parents took the body to Alwar in Rajasthan, and set it on fire. Bhavna had married 24-year-old Abhishekh Seth on November 12 against the wishes of her family members.

4. Dalit hacked to death: In March 2016, a young Dalit man was hacked to death for marrying an upper caste girl, who herself narrowly survived the brutal assault in a Tamil Nadu town. Sankar had married Kausalya, 19, who is from the politically influential Thevar community. CCTV visuals showed about six men attack Sankar, a third year engineering student, with sickles and machetes when he and Kausalya were walking on a crowded street. The killers apparently came on two motorcycles and appeared to have been shadowing the couple. Before escaping, the killers also thrashed the young woman, leaving her badly wounded. But she miraculously survived.

5. Father rapes, kills pregnant teenager: In November 2013, a father and another man were arrested for raping and murdering a 17-year-old girl. The girl had eloped to Uttan with a boy of her village in Gazipur district of Uttar Pradesh. Her father, Ramesh Rajbhar, tracked her down and brought her to his friend's house in Dachkulpada, where both tried to convince her to leave

the boy. When she flatly refused, the duo forcibly took her to an isolated forest area, where they raped the girl before strangulating her to death with her own dupatta.

6. Nirupama Pathak murder of 2010:

In May 2010, Nirupama Pathak, who was working as journalist with a business daily in Delhi, was murdered by her family in Jharkhand because she was in a relationship with a man from a lower caste.

According to this PTI report, Nirupama was dating Priyabhanshu Ranjan a colleague and friend from her Indian Institute of Mass Communication in New Delhi and had planned to marry him in an Arya Samaj mandir. Nirupama was found dead on 29 April in her parents' house in Tilaya in Koderma district in Jharkhand under mysterious circumstances. Her family then filed a case of rape and abetment to suicide against Priyabhanshu which was later found to be false. Priyabhanshu's father Ramashankar Kanth had told PTI then, "My son is innocent. He is no way involved in the case. My son had informed me on the day Nirupama died that he received an SMS from Nirupama that her mother, father and brother have bolted her inside a bathroom at their house." While her mother called it a case of suicide, a post-mortem revealed that the journalist was smothered to death and that she was 10-12 weeks pregnant at the time of her murder. Nirupama's mother was arrested but later the court set her free as the police found a suicide note signed by Nirupama. In 2012, her boyfriend surrendered to the police in a case of abetment of suicide.

7. Asha Saini murder case of 2010:

In June 2010, Delhi witnessed a brutal honour killing in Swarup Nagar in North-east part of the city, when 19-year-old Asha Saini and her boyfriend Yogesh, 20, were tortured, electrocuted and beaten to death by the girl's family.

As this Rediff report recounts, "the girl's family had disapproved of Asha's relationship with Yogesh, a driver, and had asked the boy to back off." The couple was tortured in a flat owned by the girl's uncle Omprakash and even neighbours who heard the couple wailing for hours and begging for help but didn't step in to help. Allegedly the family threatened the neighbours and told them to "mind their own business," says the report.

No one called the police to help the couple. "From 2 am onwards I could hear the boy wailing. The girl was pleading for his life. I could sense something was fishy but couldn't communicate with anyone as I had no access to a telephone at that hour," one neighbour Umesh told *Rediff*.

While the family later claimed they killed the couple in a fit of rage as they had caught them in

a compromising position, the boy's sister Renu told *Rediff*, "It was a planned conspiracy to kill my brother. I saw the girl's mother waiting for my brother outside our Gokulpur apartment. Before that, I heard Asha pestering him to meet her."

8. Monica and Kuldeep Murder of 2010:

Another honour killing hit the headlines in Delhi in June 2010 when a couple, Monica and Kuldeep, along with Monica's sister Shobha were killed by their family members.

Monica had married Kuldeep, who was a Rajput boy, and their families did not approve of the alliance. Both of them belonged to the Wazipur village of Delhi. Shobha on the other hand was involved in a relationship with a boy belonging to another caste and had reportedly helped her sister elope.

According to this IBN-Live report, the three accused - Ankit Chaudary, Mandeep Nagar and Nakul Khari- were on the run after committing the triple murders and when caught by the police, had claimed that "there was a lot of pressure on them and that's why they did this (murder)." The three were allegedly killed for bringing dishonour to their families by marrying outside their community, adds the report. At the time of the murder, the family had shockingly justified the killing and Dharamveer Nagar the uncle of Mandeep and co-accused Ankit, had said that the killings were necessary to uphold the family's honour. Ankit was Monica's brother, while Mandeep was Shobha's brother. For the killers, it was evident that they didn't see anything wrong with the murders. Ankit was quoted as saying in the IBN-Live report, "We have not done anything? We are being framed. Don't know why?"

9. Deepti Chhikara murder of 2012:

In June 2012, reports came out that a young woman Deepti Chhikara was killed, and her body was then dumped in Uttarakhand. The girl, who was a school teacher at an MCD school, was strangled to death by her mother Birmati and brother Mohit, and later her uncle Amit helped the duo in disposing of the body.

As this Hindu report at the time pointed out, "the mother-son duo first beat her up and Mohit later strangulated her to death. Birmati held Deepti by her legs, while Mohit strangulated her." Deepti wanted to marry one Lalit Vats, but her family was opposed to the match as he was from a different caste. Deepti was allegedly killed in April but her family didn't register any complaint. It was Lalit who alerted the police to the fact that Deepti had been missing since she went to her maternal home.

V. CONCLUSION

In a country like where honour related crimes are not new nor on the decline, there is no separate law related to tackle these issues. Women's rights activist, Brinda Adige, thinks that there needs to be separate law against honour crimes in IPC. "Lawyers and policemen look at honour killing as just another murder case, no one looks at what preceded the murder. Honour killings are usually premeditated-there is immense brutality that is committed, especially atrocities against SC and ST individuals. Lawyers base their defence claiming 'a crime of passion' was committed, or that it was an 'emotional' attack. Judges, in the same way, hear the case a murder, and not an honour killing". It is now a serious crime in India and we are not able to eradicate it from our society just because we don't have strict straight forward laws on it. It is the need of the hour to protect the interest of the youths who desire to express their choices and their choices are being oppressed by societal norms. They are pressurized to follow the rules of caste system, societal rules and stand at par with Patriarchal set up. Women are more victims of this heinous crime and it attacks women's sexual autonomy. They are not entitled to live a free life without shackles and boundations. In this new India we have codified laws but still it is the matter of concern to see that fundamental rights are being superseded by customary practices which are attacking and violating basic Human Rights of Individuals. Judiciary has acted wisely in many cases of honor killings but some accused enjoyed to escape from getting convicted just because of a loophole that there is no separate law to tackle this crime. The most appropriate weapon is that there should be liberal mindset rather than narrow thinking caged in caste system and patriarchy because law can only punish perpetrators but cannot remove the problem purely as it is rooted in mindset of society. If there some problem in the family due to practice of marriage which are fenced by family members than what to the large extent they should do is to end the social relationship with couple instead of doing this mercy less act just because a person has not adhere to family's regulations. Life is a great gift by God. So, it should not be snatched from any human.
